

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:19-CV-49-BO

IROQUOIS BIO-ENERGY COMPANY,)
LLC,)
Plaintiff,)
v.)
VERTEX RAILCAR CORPORATION,)
Defendant.)

ORDER

This cause comes before the Court on plaintiff's motion for voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(2).

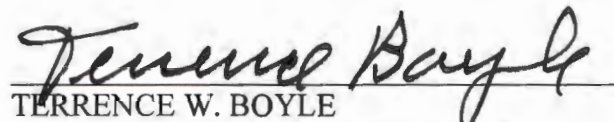
Rule 41(a)(2) of the Federal Rules of Civil Procedure permits a plaintiff to seek dismissal on the "terms that the court considers proper." A Rule 41(a)(2) dismissal is without prejudice unless ordered otherwise. "The purpose of Rule 41(a)(2) is freely to allow voluntary dismissals unless the parties will be unfairly prejudiced." *Davis v. USX Corp.*, 819 F.2d 1270, 1273 (4th Cir. 1987).

Plaintiff has established dismissal without prejudice is appropriate in this case and that there is no risk of prejudice to defendant. Plaintiff's motion [DE 48] is therefore GRANTED. Plaintiff's prior motion for entry of default [DE 35] is DENIED AS MOOT.

In light of the dismissal of this action, the writ of attachment is hereby DISSOLVED. The Clerk of Court is DIRECTED to return to plaintiff the amount previously paid as a bond in this action for issuance of a writ of attachment. The Clerk shall issue a check in the amount of \$5,000.00 to Iroquois Bio-Energy Company, LLC in care of its attorney Benton Toups with Cranfill Sumner LLP at 101 N. 3rd Street, Suite 400, Wilmington, NC 28401.

The Clerk is further DIRECTED to close this case.

SO ORDERED, this 12 day of December 2022.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE